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APPRAISAL STANDARDS BOARD

USPAP Q&A

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The Appraisal Standards Board (ASB) of The Appraisal Foundation develops, interprets, and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. The USPAP Q&A is a form of guidance issued by the ASB to respond to questions raised by appraisers, enforcement officials, users of appraisal services and the public to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems. The USPAP Q&A may not represent the only possible solution to the issues discussed nor may the advice provided be applied equally to seemingly similar situations. USPAP Q&A does not establish new standards or interpret existing standards. USPAP Q&A is not part of USPAP and is approved by the ASB without public exposure and comment.

Special Note: The following questions and responses address issues related to assignments subject to the jurisdiction of “The Uniform Relocation Assistance and Real Property Acquisitions Act” (aka “Uniform Act”).

The ASB has been engaged in a series of communications with appraisers who perform work under the Uniform Act. The following questions are typical of the questions that have arisen over the years. Since the issues have broader application, the ASB has elected to publish these specific questions and answers to assist other users of USPAP in similar work or to assist in the general understanding of the JURISDICTIONAL EXCEPTION RULE.

As with all USPAP Q&A, the advice presented is based on the specific circumstances presented and may not be applied equally to seemingly similar situations. **Appraisers are cautioned not to rely on the USPAP Q&A as a substitute for developing a thorough understanding of the provisions of the “Uniform Act”.**

UNIFORM ACT AND SCOPE OF WORK

Question:

I’m doing an appraisal assignment for a government agency that is subject to the jurisdiction of “The Uniform Relocation Assistance and Real Property Acquisitions Act of 1970, as Amended” (aka “Uniform Act”), and its implementing regulation, 49 CFR

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Part 24. The regulation requires the acquiring agency to develop the scope of work and define the appraisal problem “cooperatively” with the appraiser. This is somewhat different from USPAP’s SCOPE OF WORK RULE which places that responsibility primarily on the appraiser. The agency is providing a draft scope of work and asking me to comply with that as a minimum assignment condition. This raises two possible scenarios:

(A) If the agency scope of work seems appropriate, do I need to state somewhere in my report that the scope of work was developed by the agency with my concurrence?

(B) Assume that I believe the agency scope of work is inappropriate or inadequate. I discuss this with the agency and they insist that the scope of work they have developed is appropriate for their program needs. Can I complete the assignment and be in USPAP compliance?

Response:

The answer to both questions is the same. It is the appraiser’s responsibility to determine and perform the appropriate scope of work.

The scope of work performed in the assignment must be disclosed in the report. However, USPAP does not address disclosure of the client’s role in determining the scope of work.

Direction from the client on the scope of work is acceptable if the appraiser is able to develop credible assignment results. If the scope of work specified by the client does not allow the development of credible assignment results, the appraiser needs to discuss changing the scope of work or withdraw from the assignment.

VALUATION METHODS AND JURISDICTIONAL EXCEPTION RULE

Question:

I am doing an appraisal assignment for a government agency that is subject to the provisions of the “Uniform Act” and implementing regulation 49 CFR Part 24. They have provided me with a reference to a State Court of Appeals ruling which indicates that standing timber and landscaping impacted by a public project must be appraised based on the value it contributes to the subject property as a whole, and not as individual items. They have informed me that this appeals case is frequently cited in condemnation cases and almost always upheld by trial courts in this state. Based on this court decision, the agency has adopted a policy that all standing timber and landscaping be valued in this manner.

On this issue of landscaping, does using “contributory value” versus “replacement value” constitute a Jurisdictional Exception – or an assignment condition, since it is applied to all such government agency assignments in this state?

Response:

The USPAP JURISDICTIONAL EXCEPTION RULE does not apply in this circumstance since there are no requirements in USPAP addressing the proper valuation techniques for standing timber and landscaping. The Rule only applies when there is a conflict between the requirements of USPAP and the applicable law or public policy requirements of a jurisdiction.

USPAP requires that in the development of an appraisal, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal. Further, the COMPETENCY RULE requires recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.

The agency policy on the valuation of standing timber and landscaping is an assignment condition and must be considered in the scope of work decision. However, an appraiser cannot perform an assignment with a condition that would produce assignment results are not credible in the context of the intended use.

“BEFORE ACQUISITION VALUE” AND STANDARD RULE 1-4(f)**Question:**

I'm doing an appraisal assignment for a government agency that is subject to the provisions of the “Uniform Act” and its implementing regulation (49 CFR Part 24). In the “Before acquisition value” appraisal, the regulation requires appraisers to disregard any decrease or increase in the market value of the property that has been caused directly by the project. This regulation appears to conflict with USPAP, Standard Rule 1-4(f), which addresses the analysis of the effect on value of anticipated public or private improvements.

Obviously, I must comply with the Federal law and regulations, but I am unsure how to reconcile this with the requirements of USPAP, Standard Rule 1-4(f).

Does this situation create a USPAP “Jurisdictional Exception” or is this simply an assignment condition?

Response:

49 CFR Part 24 is an assignment condition where it applies.

The 49 CFR Part 24 regulation that requires appraisers to disregard any decrease or increase in the market value of the property that has been caused directly by the project in the “Before acquisition value” appraisal is not a Jurisdictional Exception because the regulation does not conflict with the requirements of USPAP. A Jurisdictional Exception is only created where USPAP is contrary to a requirement of law or public policy.

USPAP SR 1-4(f) becomes applicable in an assignment only when the scope of work includes the analysis of anticipated improvements.

When analyzing anticipated public or private improvements, located on or off the site, an appraiser must analyze the effect on value, if any, of such anticipated improvements to the extent they are reflected in market actions. (bold added for emphasis)

The intended use of the assignment drives the appraiser's decisions in identifying relevant property characteristics and assignment conditions. The decision to analyze the effect on value of an anticipated off-site improvement is part of the scope of work decision. The scope of work in "Before acquisition value" assignments prepared under the Uniform Act is based on a condition that anticipated project improvement will not be recognized; therefore SR 1-4(h) does not apply.

In an appraisal with an assumed condition that is contrary to known fact, the assumed condition is a hypothetical condition. A "Before acquisition value" appraisal assignment that does not include recognition of the project would require the use of a hypothetical condition because this is contrary to a known fact. The Comment to Standards Rule 1-2(g) states:

*A hypothetical condition may be used in an assignment **only if**:*

- *use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;*
- *use of the hypothetical condition results in a credible analysis; and*
- *the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions. (bold added for emphasis)*

In the reporting of a real property appraisal report, USPAP Standards Rule 2-1(c) states that the real property appraisal report must:

*clearly and accurately disclose all assumptions, extraordinary assumptions, **hypothetical conditions**, and limiting conditions used in the assignment. (bold added for emphasis)*

This requirement creates an obligation to disclose all hypothetical conditions used in the assignment. USPAP real property appraisal report requirements state that the report must, at a minimum:

clearly and conspicuously:

- *state all extraordinary assumptions and **hypothetical conditions**; and*
- *state that their use might have affected the assignment results; (bold added for emphasis)*

This requirement directs the appraiser to provide a clear and conspicuous statement of the hypothetical conditions. The form and location of the statement is left to the discretion of the appraiser, but it must be clear and conspicuous to intended users.

UNIFORM ACT AND THE REVIEW OF “LOW VALUE” ACQUISITION APPRAISAL REPORTS

Question:

I am a review appraiser for a government agency that is subject to the provisions of the “Uniform Act” and its implementing regulation (49 CFR Part 24). There is a provision in this Federal regulation that allows an acquiring agency to adopt an appraisal review reporting process, in cases of “low value” acquisitions, that may be as simple as the review appraiser stamping such an appraisal report as “approved”, and signing and dating that action.

This process is intended to be used only in certain acquisitions, such as a partial acquisition for a highway project – and then only in those that are very minor in their impact to the subject properties and which clearly do not result in legally compensable damages to the remainders or any change in highest and best use. Examples of these appraisal reports might be those performed to value easement areas and/or very minor fee simple acquisitions.

In these cases, this Federal regulation obviously requires much less than is typically required in STANDARD 3 of USPAP.

How does the ASB characterize a review appraiser’s simple approval in these instances (Jurisdictional Exception or assignment condition)?

Response:

49 CFR Part 24 is an assignment condition where it applies. There is no Jurisdictional Exception because the “Uniform Act” and its implementing regulation (49 CFR Part 24) allows the use of this “simplified” review process in cases of “low value” acquisitions but does not require it. A Jurisdictional Exception is only created where compliance with USPAP is contrary to a requirement of law or public policy. The “Uniform Act” does not mandate the use of this “simplified” review process in cases of “low value” acquisitions, therefore it is not a requirement of law or public policy; consequently, the “simplified” review process is not contrary to USPAP.

USPAP STANDARD 3 applies to appraisal review assignments and provides for flexibility in the scope of work for the review. Based on the intended use and purpose of the appraisal review, the reviewer can determine an appropriate scope of work necessary to develop credible assignment results.

In the review of “low value” acquisition appraisal reports under the Uniform Act, the “simplified” appraisal review process must produce credible assignment results in light of

the intended use. If this USPAP requirement is satisfied, the appraisal review process is acceptable.

The USPAP requirements for an appraisal review assignment also allow flexibility in reporting the results of an appraisal review assignment. The format of the appraisal review report is not addressed by USPAP, but STANDARD 3 states:

Appraisal review requires the reviewer to prepare a separate report setting forth the scope of work performed and the results of the appraisal review.

The application of a stamp to the appraisal report under review does not comply with this reporting requirement. The review appraiser must ensure that the content of the review report complies with the requirements of Standards Rule 3-2.

The USPAP Q&A is posted each month on The Appraisal Foundation website

(www.appraisalfoundation.org). The ASB compiles the monthly USPAP Q&A into the USPAP Frequently Asked Questions (USPAP FAQ) for publication with each edition of USPAP. In addition to incorporating the most recent questions and responses issued by the ASB, the USPAP FAQ is reviewed and updated to ensure that it represents the most recent guidance from the ASB. The USPAP Frequently Asked Questions can be purchased (along with USPAP and USPAP Advisory Opinions) by visiting the "Foundation Store" page on The Appraisal Foundation website (<https://commerce.appraisalfoundation.org>).

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